



12 FEB 2007

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In re Application of	:	
ABOU CHACRA-VERNET et al.	:	
Application No.: 10/519,166	:	DECISION
PCT No.: PCT/FR03/01933	:	
Int. Filing Date: 24 June 2003	:	ON
Priority Date: 25 June 2002	:	
Attorney Docket No.: 1169-032	:	PETITION
For: Solid Pharmaceutical Composition Containing A	:	
Lipophilic Active Principle And Preparation Meth...	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 27 November 2006.

### DISCUSSION

In a decision mailed on 25 August 2006, the petition under 37 CFR 1.47(a) filed on 19 June 2006 was dismissed without prejudice because

With respect to requirement (2), petitioner refers to an attached letter from Beatrice Ores, and argues that "a 'complete copy' of the application was effectively presented to Mr. Toselli for execution." Review of the letter from Beatrice Ores suggests that counsel has not yet followed the formal step of presenting Mr. Toselli with a complete copy of the application; instead, counsel appears to state that "this is not necessary" because "he was able to identify the invention concerned" without a complete copy of the application papers being presented to him. Whether or not "it is beyond clear that Mr. Toselli knew the subject matter and content of the present application," it has not been established that he knew all of the specifics of what subject matter was actually incorporated into the patent application he has been asked to execute. As such, it would not be appropriate to conclude that requirement (2) has been satisfied at this time.

In response, petitioner has provided a "Statement of Facts" signed by Sophie Goulard on 06 November 2006, indicating that

The declaration and the Assignment have been re-sent to Mr. Dominique TOSELLI on October 3, 2006 by our Firm (copy of the letter and its English translation enclosed as annexes A and A'). A copy of the International publication of the above mentioned PCT Application and a full copy of the US text as filed were attached to said forms. This registered letter and its annexes have been received by the inventor on October 13, 2006 (Copy of the executed notice of receipt with its English translation enclosed as Annex B).

In our letter, we asked the inventor to execute the Declaration and the Assignment and to send us these documents before October 19, 2006. Our letter remains without follow-up to date.

Petitioner has also attached, *inter alia*, a copy (and English translation) of a letter from Sophie Goulard to Dominique Toselli, dated 03 October 2006, which specifically indicates that copies of both the declaration and of the application papers are being forwarded to Mr. Toselli for his execution. The postal receipt (and translation) have also been made of record. This evidence establishes that Mr. Toselli was presented with a declaration document and a copy of the application papers and, taken in concert with the totality of the evidence of record, establishes that Mr. Toselli's conduct constitutes a "refusal" within the meaning of 37 CFR 1.47(a).

### DECISION

The petition under 37 CFR 1.47(a) is GRANTED.

It is noted that the petition fee has not yet actually been charged. Therefore, the \$200.00 fee is being charged to counsel's Deposit Account No. 07-1337, per the petition filed on 26 October 2005.

As provided in 37 CFR 1.47(a), a notice of the filing of this application will be forwarded to the non-signing inventor at his last known address of record.

A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

The application is being returned to the International Division for processing as the U.S. National Stage of the above-identified international application. Its date under 35 U.S.C. 371(c)(1), (2) and (4) is 26 October 2005.



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